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August 17, 2023

Via ECF

The Honorable Gabriel W. Gorenstein, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMORANDUM ENDORSED

Re: *Lorenzo v. Dee Mark Inc. et al.*
Case No.: 23-cv-00048

Dear Judge Gorenstein:

We are counsel to Plaintiff. We write to request a pre-motion conference regarding Defendants' failure to produce any class-wide discovery, notwithstanding the Court's Order, dated June 23, 2023 [Dkt. No. 17].

On June 23, 2023, the parties informed the Court of a discovery dispute due to Defendants' refusal to produce class discovery. Defendants' position was that class discovery was irrelevant to this action. *See* Joint Letter for Rule 37.2 Conference, dated June 23, 2023 [Dkt. No. 15].

On that same day, the Court Ordered that Plaintiff was entitled to non-burdensome discovery on the issues of commonality, typicality and numerosity. *See* Dkt. No. 17. Following this Order, on June 29, 2023, counsel for Plaintiff C.K. Lee, Esq. and Francis Lee, Esq. met and conferred with counsel for Defendants Adam Weiss, Esq. for approximately 20 minutes by telephone to discuss Defendants' production of class sampling. Defendants indicated that the class was contained least 150 employees, and the parties agreed that Defendants would produce a 20% sampling of class documents. The parties agreed that by 7/7/23, Defendants would produce a class list for the 3 locations, which they have done; and ultimately that the sampling of class documents would be produced by August 16, 2023.

On August 16, 2023, Defendants informed us that they would not be producing the sampling as agreed. As of the date of this letter, we still have not received any class documents. With the close of discovery set for September 22, 2023, Defendants failure to comply with the Court's June 23, 2023, Order is highly prejudicial to Plaintiff. Additionally, Defendants still have not verified their Interrogatory responses, despite Plaintiff's repeated reminders.

In view of the foregoing, Plaintiff respectfully requests a pre-motion conference regarding Defendants' failure to produce any class-wide discovery. We thank the Court for considering this matter.

Respectfully submitted,

/s/ C.K. Lee

C.K. Lee, Esq.

cc: all parties via ECF

Application denied without prejudice. This letter does not reflect the conferral required by paragraph 2.A of the Court's Individual Practices. The parties shall immediately confer by telephone in an attempt to resolve this dispute. If a dispute remains, they shall file a jointly-composed letter that provides in detail each side's views on the dispute. As part of the drafting process, parties are urged to reconsider and change their position as appropriate.

So Ordered.



GABRIEL W. CORENSTEIN
United States Magistrate Judge

August 18, 2023